

**THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of Florida Power & Light  
Company's proposed merger with Entergy  
Corporation, the formation of a Florida  
transmission Company ("Florida  
transco"), and their effect on FPL's retail  
sales**

§  
§  
§  
§  
§  
§

**Docket No.: 001148-EI**

**PETITION TO INTERVENE**

South Florida Hospital and Healthcare Association ("SFHHA") and individual healthcare institutions in the Florida Power & Light Company ("FPL") service territory (collectively with the SFHHA, the "Hospitals"), pursuant to the Florida Administrative Code Rules 25-22.039 and 28-106.205, hereby petition to intervene in this docket. As grounds therefore, the Hospitals state as follows:

1. The name and address of SFHHA is:

South Florida Hospital and Healthcare Association  
6363 Taft Street  
Hollywood, Florida 33024  
(954) 964-1660 Phone  
(954) 9642-1260 Facsimile

2. The names of individual healthcare institutions referenced in the first sentence of this pleading are listed in Appendix A to this pleading.

3. All pleadings, orders and correspondence should be directed to Petitioners' representative as follows:

Mark F. Sundback  
Kenneth L. Wiseman  
Andrews & Kurth L.L.P.  
1701 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006  
(202) 662-2700 Phone  
(202) 662-2739 Facsimile

and

DOCUMENT NUMBER-DATE

05509 MAY-26

Linda Quick, President  
South Florida Hospital and Healthcare Association  
6363 Taft Street  
Hollywood, Florida 33024  
(954) 964-1660 Phone  
(954) 9642-1260 Facsimile

4. This proceeding was initiated to consider FPL's retail rates, in light of *inter alia*, the planned formation of a regional transmission organization ("RTO") for peninsular Florida, and of a proposed merger with Entergy Corporation. *See*, "Order Establishing Procedure," Docket No. 001148-EI (November 6, 2000), p.1 (hereinafter "Order Establishing Procedure"). FPL's retail rates could be affected by costs or savings arising from formation and participation in a RTO, as well as costs arising from its apparently unsuccessful merger attempt.

5. SFHHA is a regional healthcare provider association acting as an advocate, facilitator and educator for its members, and a voice for improving the health status of its community. Particularly, SFHHA advocates the interests, and encourages involvement, of its member organizations in communications with the public, to elected and government officials, and to the business community and engages in cost-effective projects and programs that benefit, or add value to the services offered by, its member organizations.

6. Entities listed on Appendix A are engaged in providing, *inter alia*, acute healthcare services, and receive electric power from and pay the rates of FPL. Healthcare facilities, because of the services they render, their load profile, and their concern with reliable, consistent levels of service, have important concerns regarding the services and rates of FPL.

7. The Commission's order establishing procedures in this docket recognized that "[i]t is anticipated that an extended period of discovery will take place before the . . . identification of specific issues to be considered." Order Establishing Procedure, p. 1. Not all of the specific issues to be addressed have yet been identified, as was noted in the March 14, 2001 "Order Granting Motion For Leave To File Amended Petition To Intervene and Granting in Part and Denying in Part Amended Petition to Intervene" in this docket (p. 3).

8. Disposition of this case may affect rates for FPL, as well as the terms and conditions of service for healthcare institutions connected to FPL's facilities; thus the Hospitals have an interest in the proceeding and would be directly and substantially affected by any action the Commission takes in this docket.

9. For a potential intervenor to demonstrate that its substantial interests will be affected by a proceeding, the potential intervenor must show: (a) it will suffer injury in fact as a result of the agency action contemplated in the proceeding that is of sufficient immediacy to entitle it to a hearing; and (b) the injury suffered is a type against which the proceeding is designed to protect. *See, Ameristeel Corp. v. Clark*, 691 So. 2d 473, 477 (Fla. 1997).


10. Disputed issues of material fact include, but are not limited to, the following:

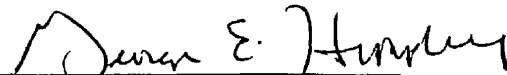
- (a) The effect of the failed merger on FPL's earnings and costs;
- (b) The effect of the RTO on competition in Florida;
- (c) The effect of the proposed RTO on retail rates in the Florida market;

- (d) Appropriate adjustments to be made in setting retail rates for FPL retail customers; and
  - (e) The appropriate level of rates charged by FPL for service.
11. The applicable statutes and rules, include, but are not limited to:

Chapter 366, Florida Statutes  
Fla. Admin. Code Chapter 25  
Fla. Admin Code Rule 28-106

WHEREFORE, the Hospitals request that the Florida Public Service Commission grant the Hospitals' Petition to Intervene and accord them full party status in this docket.

  
Mark F. Sundback  
Kenneth L. Wiseman  
Andrews & Kurth L.L.P.  
1701 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006  
Ph. (202) 662-3030  
Fax. (202) 662-2739

  
George E. Humphrey  
Florida Reg. No. 0007943  
Andrews & Kurth L.L.P.  
600 Travis, Suite 4200  
Houston, Texas 77002-3090  
Ph. (713) 220-4200  
Fax. (713) 220-4285

Attorneys for the Hospitals

May 1, 2001

## APPENDIX A

Northwest Medical Center	University of Miami Hospital and
Plantation General Hospital	Clinics
University Hospital	Bascom Palmer Eye Institute
Westside Regional Medical Center	Ann Bates Leach Eye Hospital
Aventura Hospital	Jackson Memorial Hospital
Cedars Medical Center	Jackson Memorial North Maternity
Deering Hospital	Center
Kendall Regional Medical Center	Broward General Medical Center
Columbia Hospital	Coral Springs Medical Center
JFK Medical Center	Imperial Point Medical Center
Palms West Hospital	North Broward Medical Center
Florida Medical Center	North Shore Medical Center
Hollywood Medical Center	
North Ridge Medical Center	
Coral Gables Hospital	
Hialeah Hospital	
Palmetto General Hospital	
Parkway Regional Medical Center	
Delray Medical Center	
Palm Beach Gardens Medical Center	
West Boca Medical Center	
Vencor Hospital - Hollywood	
Vencor Hospital - Ft. Lauderdale	
Vencor Hospital - Coral Gables	
Baptist Hospital of Miami	
South Miami Hospital	
Miami Children's Hospital	
Mt. Sinai Medical Center	
Miami Heart Medical Center	

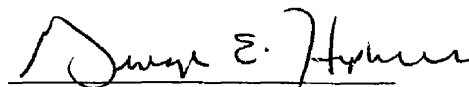
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Federal Express to the following parties of record and interested parties, this 1<sup>st</sup> day of May, 2001.

Robert V. Elias, Esquire.  
Legal Division  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, FL 32399-0850

William G. Walker, III  
Florida Power & Light Company  
9250 West Flagler Street  
Miami, Florida 33174

J. Roger Howe, Esq.  
Office of Public Counsel  
c/o Florida Legislature  
111 W. Madison Street  
Room No. 812  
Tallahassee, Florida 32399-1400

  
George E. Humphrey

Florida Industrial Power Users Group  
c/o John McWhirter, Jr., Esq.  
400 North Tampa St., Suite 2450  
Tampa, Florida 33601-3350

Joseph A. McGlothlin, Esq.  
Vicki Gordon Kaufman, Esq.  
McWhirter Reeves Law Firm  
117 South Gadsden  
Tallahassee, Florida 32301

Thomas A. Cloud, Esquire  
Gray, Harris & Robinson, P.A.  
301 East Pine Street, Suite 1400  
P.O. Box 3068  
Orlando, Florida 32802-3608

Matt Childs, Esquire  
Steel Hector & Davis, LLP  
215 S. Monroe Street, Suite 601  
Tallahassee, Florida 32301-1804

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of Florida Power & Light  
Company's proposed merger with Entergy  
Corporation, the formation of a Florida  
transmission Company ("Florida  
transco"), and their effect on FPL's retail  
sales**

§  
§  
§  
§  
§  
§

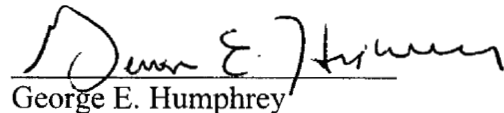
**Docket No.: 001148-EI**

**MOTION FOR ADMISSION *PRO HAC VICE*  
OF  
MARK F. SUNDBACK AND KENNETH L. WISEMAN**

George E. Humphrey, an attorney duly admitted and in good standing with the Bar in the State of Florida, hereby moves the admission of Mark F. Sundback, Esquire and Kenneth L. Wiseman, Esquire of the law firm of Andrews & Kurth L.L.P. *pro hac vice*, as counsel for the Hospitals, as that term is defined in the petition to intervene filed concurrently with this motion. Attorneys Sundback and Wiseman are members in good standing of the Bar of the District of Columbia and admitted to practice before the District of Columbia Court of Appeals, the highest court in the District's judicial system. Each is experienced in the matters involved in public utility regulation and has practiced extensively before agencies engaged in such regulation as reflected in the attached certifications.

Respectfully submitted,

**ANDREWS & KURTH L.L.P.**



George E. Humphrey  
Florida Reg. No.0007943  
600 Travis, Suite 4200  
Houston, Texas 77002  
Telephone: 713-220-4200  
Facsimile: 713-220-4285

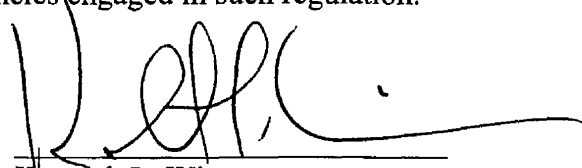
**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of Florida Power & Light §  
Company's proposed merger with Entergy §  
Corporation, the formation of a Florida §  
transmission Company ("Florida §  
transco"), and their effect on FPL's retail §  
sales §**

**Docket No.: 001148-EI**

**CERTIFICATION**

I, Kenneth L. Wiseman, hereby certify, pursuant to Rule 25-22.008, Florida Administrative Code, that I am an attorney in good standing of the Bar of the District of Columbia, that I am experienced in the matters involved in public utility regulation, and that I have practiced extensively before agencies engaged in such regulation.



Kenneth L. Wiseman  
District of Columbia Bar No. 943092




**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Federal Express to the following parties of record and interested parties, this 1<sup>st</sup> day of May, 2001.

Robert V. Elias, Esquire.  
Legal Division  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, FL 32399-0850

William G. Walker, III  
Florida Power & Light Company  
9250 West Flagler Street  
Miami, Florida 33174

J. Roger Howe, Esq.  
Office of Public Counsel  
c/o Florida Legislature  
111 W. Madison Street  
Room No. 812  
Tallahassee, Florida 32399-1400

  
George E. Humphrey

Florida Industrial Power Users Group  
c/o John McWhirter, Jr., Esq.  
400 North Tampa St., Suite 2450  
Tampa, Florida 33601-3350

Joseph A. McGlothlin, Esq.  
Vicki Gordon Kaufman, Esq.  
McWhirter Reeves Law Firm  
117 South Gadsden  
Tallahassee, Florida 32301

Thomas A. Cloud, Esquire  
Gray, Harris & Robinson, P.A.  
301 East Pine Street, Suite 1400  
P.O. Box 3068  
Orlando, Florida 32802-3608

Matt Childs, Esquire  
Steel Hector & Davis, LLP  
215 S. Monroe Street, Suite 601  
Tallahassee, Florida 32301-1804